

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department - Khammam District .- Revision Petition filed U/s. 6 of APSALTR 1959 r/w 1/70 by Sri Pallepuru Ramana Rao S/o China Satyanarayana R/o Yedualla Bayyaram (V)Pinapaka (M) Khammam District-against the Orders of the Additional Agent to Government, Bhadrachalam in C.M.A No: 02/2009 dated: 02-01-2010 - Dismissed – Orders – Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms.No.3

Dated 30-1-2012

Read the following:

1. Caveat Petition filed by Padiga Narsimha Rao, S/o Mallaiah, dated 20-01-2010.
2. Revision Petition filed by Sri Pallepuru Ramana Rao S/o China Satyanarayana through his counsel Sri Nanduri Srinivasa Rao dated 31-01-2010.
3. Government Letter No.603/LTR.2/2010, dated 7-4-2010.
4. Revision Petition by Sri Nanduri Srinivasa Rao counsel for Sri Pallepuru Ramana Rao resubmitted on 22-4-2010.
5. From the Hon'ble High Court of A P Order in WP No.3361/10 dated 17.2.10.
6. Government Memo.No.603/TR.2/2010, dated 2-6-2010
7. Government Letter No. 603/TR.2/2010, dated.2-6-2010
8. From the Addl.Agent to Govt. Bhadrachalam dated.3-9-2010 and dated 22-1-2011.
9. From the Hon'ble High Court of A P Order in WP No.1060/10 dated .9-11-2011
10. From the Government Pleader for Social Welfare, High Court of AP, Letter No.WA 1379/11/KR/SW/HC dated 30-12-2011.
11. From the Hon'ble High Court of A P Notice in WA No.1379/11 dated 30-12-2011.
12. Govt. Telegram No. 603/TR.2/2010, dt.31-12-2011
13. Implead Petition filed by Govt. in WAMP No.34/12 in WP No.1060/11 before the Hon'ble HC of AP on 3-1-2012
14. Affidavit filed by Government in WASR No.1444/12 in WP NO.1060/11 before the Hon'ble High Court of AP on 3-1-2012
15. From the Hon'ble High Court of AP, order in CC No 1836/11 in WA No.1379/11, dated 05-01-12.
16. Government Telegram No.603/TR.2/2010, dated 18-1-2012.

ORDER:-

In the reference 2nd read above Sri Pallepuru Ramana Rao S/o China Satyanarayana R/o Yedualla Bayyaram (V) Pinapaka (M) Khammam (D) filed a Revision Petition against the Orders of the Additional Agent to Government, Bhadrachalam.in C.M.A No:02/2009 dated:02-01-2010 in respect of land measuring Acres 2-00 in Survey No: 838/134 of Yedualla Bayyaram (V) Pinapaka (M) Khammam Dist. The petitioner has also filed a stay petition with a request to stay the dispossession of the petitioner from the said land. The main grounds of the appellant in the Revision Petition among others are as follows ---

::2::

1. The Additional Agent to Government, Bhadrachalam with out considering the lower court orders passed the order with out any justification.
2. The Additional Agent to Government failed to appreciate that the Special Deputy Collector, Bhadrachalam passed the impugned orders dated 14-05-08 disclosing that the LTR Case No 51/08/PNK dropped the case under Resjudicata with out conducting any enquiry and Additional Agent to Government also passed the impugned order with out considering the facts.
3. The Additional Agent to Government has no jurisdiction or authority to adjudicate any thing in respect of possession of the Pallepu Ramana Rao since long prior to the commencement of the Regulation.
4. The Additional Agent to Government is not justifiable and prejudiced to the Pallepu Ramanarao that the sale transaction took place on white paper between the petitioner and the father of the Padiga Narsimha Rao (4TH Respondent in R.P.) and Pallepu Ramana Rao is not existing as pattadar and his name was not entered in the Revenue Records.
5. The Additional Agent to Government's orders is not justifiable that the Mandal Revenue Officer, Pinapaka was directed to take over possession of Scheduled land with out appreciating the provisions of Sec 3 (2) (a) of the APSALTR -1959.

2. The brief facts of the case are that the case was initiated on the report of Mandal Revenue Officer, Pinapaka since the scheduled land falls in Scheduled Area and is under occupation of a Non Tribal i.e. (Sri Pallepu Ramana Rao). The Special Deputy Collector (TW) Polancha after due process notices were served on the concerned parties. At the time of hearing the petitioner's grand son i.e., Padiga Narasimha Rao (T) deposed that the suit land patta is in the name of his Grand father Sri Padiga Sambaiah and the land was sold away to father of Pallepu Ramana Rao in the year 1962 and is under the possession of Pallepu Ramana Rao (Non Tribe). At the time of hearing Sri Pallepu Ramana Rao (Non Tribe) deposed that the land was purchased by his father in the year 1962 from the Padiga Sambiaiah (T) and that the land is under his possession duly paying the land revenue. On perusal of the evidence of records produced by the Non Tribal the Special Deputy Collector, Paloncha concluded that the land transferred between tribal to Non tribal on 15-03-1962 i.e. prior to enforcement of the APSALTR 1959 r/w 1/70 and the provisions of the land transfer Regulation of 1/59 r/w 1/70 will not attract the case and hence no reason to interfere with the peaceful possession and enjoyment of the suit land by Sri Pallepu Ramana Rao (Non Tribe) and the case was dropped vide LTR Case No 1044/94/PNK, dated 1-05-1995. However, the case was again reopened by the Special Deputy Collector (TW), Bhadrachalam in the year 2008 as the scheduled land is in possession of Sri Pallepu Ramana Rao (NT) based on the report of Special Deputy Tahsildar, Bhadrachalam and finally posted the case on 9-5-2008, whereas the Tribal Petitioner (Padiga Narsimha Rao) was absent and Sri Pallepu Ramana Rao (NT) filed Zerox copies of order of the Special Deputy Collector LTR Case No 1044/94/PNK, dt 1-05-1995 and Pahanies for the years 1399,1402,1403 and 1404 and sada sale deed dt 15-3-1962. The Special Deputy Collector (TW) ,Bhadrachalam after verifying the available records concluded that the case was Resjudicata and dropped the case vide LTR Case No 51/08/PNK, dated 14/05/2008.

3. Aggrieved by the orders of Special Deputy Collector (TW), Bhadrachalam Sri Padiga Narsimha Rao (Tribal) has filed Appeal Petition before the Additional Agent to Government, Bhadrachalam. The Additional Agent to Government, Bhadrachalam issued notices to the concerned parties. Sri Padiga Narsimha Rao deposed that he is an ST (Koya) and the scheduled property was acquired by his grand father Sri Padiga Sambaiah and his name also incorporated in Revenue Records as pattadar. He has also paid the Land Revenue and Sri Pallepuru Ramana Rao (NT) had forcibly occupied the land from his grand father.

4. The Additional Agent to Government, Bhadrachalam on perusal of Lower Court records observed that the Scheduled land was sold by Padiga Mallaiah (Tribal) on 15-03-62 through a sada sale deed on white paper and which is un-registered; Sri Pallepuru Ramana Rao (NT) has not filed any supportive documents such as pahani copies of the year of purchase prior to the commencement of the APSALTR 1959 r/w 1/70 but filed order of the Special Deputy Collector LTR Case No 1044/94/PNK, dated 1-05-1995 and Pahanies for the years 1399,1402,1403 and 1404 and sada sale deed dated 15-3-1962 along with LR receipts after enforcement of the Regulation; The lower court did not verify the records properly and dropped the case in LTR Case No 1044/94/PNK,dt.1-5-1995 and in LTR Case No 51/08/PNK, dated 14-5-08 respectively.

5. The Additional Agent to Government, Bhadrachalam finally concluded that the scheduled land belongs to tribal appellant family, the non tribal Sri Pallepuru Ramana Rao came into possession of Scheduled land in contravention of Regulation 1959 r/w 1/70 and set aside the lower court orders in LTR Case No.1044/94/PNK, dated 1-5-1995 and 51/08/PNK, dated 14-05-2008 respectively and directed the Tahsildar, Pinapaka to evict the non tribal respondent or who ever in possession of suit land and restore the same to the appellant under cover of pachanama and allowed the appeal vide CMA No 2/09, dated 2.1.2010. Hence the Revision Petition before the Government on 31-1-2010.

6. Later Sri Pallepuru Ramana Rao (NT) filed writ before the Hon'ble High Court of AP against the orders of Additional Agent to Government, Bhadrachalam in CMA No.2/2009, dt.2-1-2009 The Hon'ble High Court issued orders in W.P No 3361/10, dated 17-2-2010 directing the Government to dispose of the Revision Petition within a period of three months from the date of receipt of a copy of court order, till such time the respondents (officials) are directed not to give effect to the orders of the Additional Agent to Government, Bhadrachalam.

7. In Government memo. 4th read above, the Additional Agent to Government, Bhadrachalam was requested to furnish parawise remarks and case records and the same were furnished in the reference 6th read above. After examination of the case records, notices were issued to the concerned to attend the hearing of the Revision Petition on 4-1-2012. The counsel for the Revision Petitioner attended the hearing on 4.1.2012 and filed written arguments. The counsel for the tribal respondent was present and informed that the bundle of case papers were taken away from him by tribal and stated that he is no more concerned in the matter. The case was again posted for hearing on 27-1-2012. Sri Pallepuru Ramana Rao (NT) (Revision petitioner) and his counsel attended and argued the case. Sri Padiga Narasimha Rao (T) (4th respondent in RP) absent and his counsel attended the hearing and filed vakalat and also filed written arguments.

8. After hearing the arguments of both the Counsels and the material evidence on record it is observed that ;

- i) The land under reference is situated in the Scheduled Area under the possession and enjoyment of Sri Padiga Sambaiah, (Tribe) Grand Father of the Caveat Petitioner Sri Padiga Narasimha Rao said to have been sold by Sri Sambaiah, original possessor to Sri Pallepuru Ramana Rao (Non-Tribe) in the year 1962 and the said transaction took place on a plain paper, unregistered, the legality of which is questionable.
- ii) Since, the subject land is in the Scheduled area and under the enjoyment of a non-Tribe, the Special Deputy Collector, Paloncha, basing on the report of the Mandal Revenue Officer, Pinapaka has issued notices to the concerned and dropped the LTR Case No. 1044/94/PNK dt. 1-5-1995 in favour of Sri Pallepuru Ramana Rao (Non-Tribe) on the presumption that the sale transaction took place in the year 1962 i.e. much earlier to the enforcement of APSALTR-59 read with 1/70. In the year 2008, LTR Case No. 51/08/PNK was again initiated by the Special Deputy Collector (TW), Bhadrachalam and applying Resjudicata dropped the case on 14-5-2008.
- iii) Aggrieved with the orders of the Special Deputy Collector (TW), Bhadrachalam, Sri Padiga Narasimha Rao, Grand Son of Sri Padiga Sambaiah filed Appeal Petition before the Additional Agent to Government / Project Officer, I.T.D.A. Bhadrachalam, Khammam District and after following due procedure, the Appeal Petition in C.M.A. No. 02/2009 has been disposed off on dt. 02-01-2010, setting aside the earlier orders passed by the lower courts and the Tahsildar, Pinapaka was directed to evict Sri Pallepuru Ramana Rao (Non-Tribe) from the subject land and restore the same to Sri Padiga Narasimha Rao (Tribe). Hence, this Revision Petition.
- iv) In his Revision Petition, among other things, Sri Pallepuru Ramana Rao has primarily contented that the Additional Agent to Government, though having no jurisdiction, without considering the facts of the case and the Judgments of the Lower Courts and without appreciation of the provisions of Section 3 (2) (a) of the APSALTR- 1959 has directed the Mandal Revenue Officer. Pinapaka to take over possession of the Scheduled land.
- v) That the documentary evidences that are produced by the Revision Petitioner are not prior to the period of commencement of APSALTR-1959 read with 1/70. Mere possession of the land and production of the sale transaction occurred between a Tribe and Non-Tribe, on Sada paper, unregistered, whose legality is questionable, does not confer any right over the subject land to the Revision Petitioner. The report of the Tahsildar, Pinapaka dated 10-2-2011 reveals that the subject land is assigned land, which attracts the provisions of the A.P. L.A (POT) Act, 1970, also according to which the transactions occurred in respect of an assigned land are to be null and void.
- vi) "According to sada sale deed dated 15-3-1962, the non tribal Revision Petitioner ie. Sri Pallepuru Ramana Rao purchased an extent of Ac.2.00 in Sy.No.838/134 of Yadulla Bayyaram Vg. Pinapaka (M) In C.R.P. NO.1087/96 (Bangaru Rama Thulisamma Vs. Yada Mastan Reddy) the Hon'ble High Court in its order dt.10-8-1998 held that unstamped and unregistered sale deeds cannot be taken as an evidence of proof according to section 17 "B" of Regulation Act."
- vii) Based on the documentary evidences produced before Government and taking into consideration and after hearing the oral evidences / statements, the Government finds that the Additional Agent to Government / Project Officer, I.T.D.A. Bhadrachalam, Khammam District has rightly passed Orders dated 02-01-2010 in C.M.A. No. 02/2009, in respect of the land admeasuring Acres 2.00 in Sy. No. 838/134 of Edulla Bayyaram (V), Pinapaka (M), Khammam District and arrives at the conclusion that there is no need to interfere with the orders of Additional Agent to Government, Bhadrachalam in CMA NO.2/2009, dated 2-1-2009

::5::

9. The Government after careful examination of the material evidence available on record, find no reason to interfere with the orders of Additional Agent to Government, Bhadrachalam in CMA NO.2/2009, dated 2-1-2009 and accordingly the Revision Petition filed by Sri Pallepuru Ramana Rao (NT) is hereby dismissed.

10. The Project Officer, ITDA & Additional Agent to Government, Bhadrachalam is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

DR.A.VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:

The Additional Agent to Government & Project Officer, ITDA
Bhadrachalam, Khammam.(WE)

He is requested to acknowledge the following records

1. CMA No.2/09,of AAG. Bhadrachalam
2. LTR CASE Nos.1044/94/PNK,and 51/PNK/2008.

The Collector & District Magistrate, Khammam Dist.

Copy to

Sri Nanduri Srinivasa Rao,M.Ganapathi Rao and

Sri K.Srimannarayana, Advocates, Bhadrachalam-507 111.

Sri Pallepuru Ramana Rao S/o China Satyanarayana

R/o Yedualla Bayyaram (V)Pinapaka (M) Khammam District

Sri Palivela Satyaraja Babu, Advocate,

H.No.1-4-280, Plot No.121, Road No.10,

New Maruthinagar East, Kothapeta, Hyderabad-35.

Sri Padiga Narsimha Rao ,

R/o Gaddampalli (V),Pinapaka (M), Khammam District

The P.S. to M(TW) for information

The PS to Principal Secretary to Government (TW)

The Government Pleader for Social Welfare, High Court of A.P.

SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER